

AO 91 (Rev. 5/85) Criminal Complaint

United States District Court

DISTRICT OF Massachusetts

UNITED STATES OF AMERICA

V.

Francisco Rivera
110 Westford Street
Lowell, Massachusetts

CRIMINAL COMPLAINT

CASE NUMBER: 03M-1147-JGD

(Name and Address of Defendant)

I, the undersigned complainant being duly sworn state the following is true and correct to the best of my knowledge and belief. On or about February 14, 2001 in Middlesex county, in the District of Massachusetts defendant(s) did, (Track Statutory Language of Offense) being a person previously convicted of a felony, did possess a firearm which traveled in interstate commerce

in violation of Title 18 United States Code, Section(s) 922(g)(1)

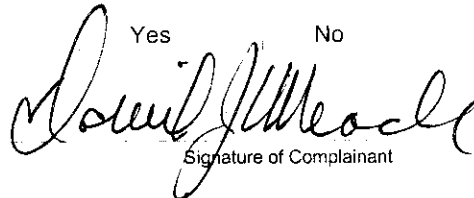
I further state that I am a(n) Special Agent with ATF and that this complaint is based on the following facts:
Official Title

See attached affidavit of Daniel J. Meade

Continued on the attached sheet and made a part hereof:

Yes

No


Signature of Complainant

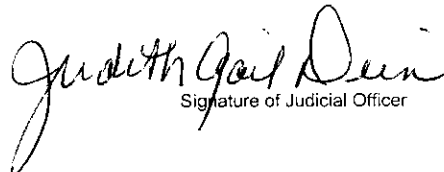
Sworn to before me and subscribed in my presence,

10/23/03
Date

at

BOSTON, MASSACHUSETTS
City and State

JUDITH G. DEIN
UNITED STATES MAGISTRATE JUDGE
Name & Title of Judicial Officer


Signature of Judicial Officer

This form was electronically produced by Elite Federal Forms, Inc.

AFFIDAVIT OF DANIEL J. MEADE

I, Daniel J. Meade, being duly sworn, do depose and state that:

1. I am employed as a Special Agent with the Bureau of Alcohol, Tobacco, Firearms and Explosives ("ATF"), and have been so employed for the past twelve years. Prior to that, I was employed as a Deputy United States Marshal. During my career in law enforcement, I have participated in hundreds of investigations involving the unlawful possession of firearms by convicted felons, as well as the unlawful possession of firearms by individuals during and in relation to drug trafficking crimes. I am currently assigned to Boston Group IV, which consists of ATF Special Agents investigating violations of federal firearms laws in the Commonwealth of Massachusetts. I have participated in the investigation and/or the arrest of more than 150 individuals, the majority of which concerned violations of Title 18, United States Code, Section 922(g)(1). I have been the affiant/co-affiant, or participated in the preparation and execution of more than seventy-five state and federal arrest and search warrants.

2. As a result of my participation in these investigations and the training I have received as an ATF Special Agent, I am familiar with federal firearms laws and know that it is a violation of Title 18, United States Code, Section 922(g)(1) for

any person who has been previously convicted of a felony to possess a firearm or ammunition that has previously traveled in interstate commerce.

3. This affidavit is submitted in support of a complaint and arrest warrant for Francisco RIVERA, (DOB: 9/10/1978) for possession of a firearm by a convicted felon, in violation of Title 18, United States Code, Section 922(g)(1). The facts stated herein are based upon my personal involvement in this investigation and my discussions with other law enforcement officers involved with this investigation. In submitting this affidavit, however, I have not included each and every fact known to me about the investigation, but only those facts which I believe are sufficient to establish the requisite probable cause.

4. On February 14, 2001, at about 7:30 p.m., Lowell Police Department officers Cullen and Burke observed a car double parked in front of 300 Jackson Street. The officers pulled alongside the car and Officer Cullen directed the driver to roll down his window. Officer Cullen observed the driver to be glassy-eyed, with his eyes half closed, and slurring his speech in response to questioning. When asked if he had taken anything, the driver responded that he had smoked some "dope."

5. Officer Burke backed the cruiser up behind the car. Officer Cullen approached the driver and Officer Burke approached the passenger side of the car. Officer Burke then recognized the

driver as Francisco RIVERA, whom he had arrested previously for armed assault with intent to murder. The officers ran a computer check on RIVERA and found an outstanding warrant for Armed Assault with Intent to Murder, Assault and Battery with a Deadly Weapon, and Disorderly Conduct out of Lowell District Court.

6. RIVERA was placed under arrest on the outstanding warrant and was searched incident to that arrest. Officers seized a plastic bag containing what appeared to be, and what later analysis confirmed as, marijuana and \$4,060 in currency.

7. Officer Cullen asked the passenger, David Perez, if he had a valid driver's license. He said he did not have it on him. Officer Cullen radioed dispatch to determine if Perez had a valid driver's license and was informed that there was a possible warrant on Perez as well and to confirm his date of birth. Officer Cullen asked Perez to step from the vehicle and to produce a photo identification.

8. As Perez got out of the car, Officer Cullen saw a sliver handgun sticking out from under the passenger seat. Officer Cullen yelled "gun," pulled his service weapon and ordered Perez to the ground. A pat frisk revealed a plastic bag containing what appeared to be, and what later analysis confirmed as, marijuana and \$4,043 in cash wrapped in thousand dollar bundles in 20s and 100s. The firearm under the passenger seat was a Sundance Industries .25 caliber pistol serial number

048288, and had 7 rounds in the clip. Officer Cullen asked Perez if he had a firearms license and Perez said no. RIVERA, apparently overhearing the question, commented "We don't need them."

9. Perez was placed under arrest for possession of a class D substance with intent to distribute, possession of a firearm, and possession of ammunition. Both Perez and RIVERA were taken to the station for booking.

10. An inventory search of the vehicle resulted in the seizure of another handgun, a black Glock, model 23, .40 caliber with the serial number etched off, located under the driver's seat. The Glock was loaded with 12 rounds with one in the chamber.

11. In addition to his arrest for the outstanding warrant, RIVERA also was booked on possession of a firearm, possession of ammunition, possession of a Class D substance with intent to distribute, and destruction of a firearm serial number. During booking, a Lowell officer commented to RIVERA that he had not learned from a previous experience "not to carry." RIVERA replied, "My brother got killed, I need it to protect myself."

12. I conducted a criminal record check on RIVERA and determined that on September 9, 1999, he was convicted in Lowell District Court of, among other things, Assault and Battery with a Dangerous Weapon, in violation of Mass.G.L. Chapter 265 §15(B).

This offense is punishable by more than one year imprisonment.

13. Special Agent Angelo Thurman, ATF Interstate Nexus expert, has advised me that both the Glock, model 23, 40 caliber pistol with an obliterated serial and the Sundance Industries .25 caliber pistol, serial number 048288, were manufactured outside of Massachusetts and therefore did travel in interstate commerce.

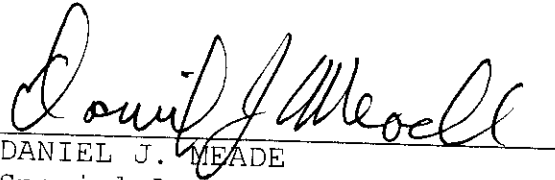
14. The Massachusetts State Police Ballistics Unit tested the Glock, model 23, 40 caliber pistol with an obliterated serial and the Sundance Industries .25 caliber pistol, serial number 048288 and determined that these firearms functioned as designed.

15. On or about December 16, 2002, Barbara Terrell, ATF Restoration of Rights Section, advised me that a search of ATF records revealed that RIVERA has not applied for or received a restoration of rights to possess a firearm.

16. On or about December 16, 2002, Valerie McCarthy, of the Massachusetts Governors Pardon Board, advised me that RIVERA has neither received nor requested a pardon.

17. Based on the foregoing, there is probable cause to believe that Francisco RIVERA, having previously been convicted of a crime punishable by a term of imprisonment of more than one year, possessed one or more firearms in and affecting commerce, to wit: a Glock, model 23, .40 caliber pistol with an obliterated

serial number, in violation of Title 18, United States Code,
Section 922(g)(1).



DANIEL J. MEADE
Special Agent
Bureau of Alcohol, Tobacco
and Firearms

Sworn and subscribed to before me this 23 day of October
2003.



JUDITH G. DEIN
United States Magistrate Judge

Criminal Case Cover Sheet

U.S. District Court - District of Massachusetts

Place of Offense:

Category No. IIInvestigating Agency ATFCity Lowell, MA**Related Case Information:**County Middlesex

Superseding Ind./ Inf. _____

Case No. _____

Same Defendant _____

New Defendant _____

Magistrate Judge Case Number _____

Search Warrant Case Number _____

R 20/R 40 from District of _____

034-1147-J6D**Defendant Information:**Defendant Name Francisco Rivera

Juvenile

☐ Yes☒ No

Alias Name _____

Address 110 Westford Street, Lowell, MABirth date: xx/xx/78 SS#: xxx-xx-7711 Sex: m Race: Hispanic Nationality: US

Defense Counsel if known: _____

Address: _____

Bar Number: _____

U.S. Attorney Information:AUSA Sandra S. BowerBar Number if applicable 0787700Interpreter: ☐ Yes ☒ No

List language and/or dialect: _____

Matter to be SEALED: ☐ Yes ☒ No☒ Warrant Requested☐ Regular Process☐ In Custody

Location Status: _____

Arrest Date: _____

☐ Already in Federal Custody as _____ in _____☒ Already in State Custody _____☐ Serving Sentence☒ Awaiting Trial☐ On Pretrial Release: Ordered by _____

on _____

Charging Document:

☒ Complaint☐ Information☐ Indictment

Total # of Counts:

☐ Petty☐ Misdemeanor☒ Felony 1

Continue on Page 2 for Entry of U.S.C. Citations



I hereby certify that the case numbers of any prior proceedings before a Magistrate Judge are accurately set forth above.

Date: 10-23-03Signature of AUSA: Sandra S. Bower

District Court Case Number (To be filled in by deputy clerk): _____

Name of Defendant Francisco Rivera

U.S.C. Citations

	<u>Index Key/Code</u>	<u>Description of Offense Charged</u>	<u>Count Numbers</u>
Set 1	<u>18 USC 922(g)(1)</u>	<u>Felon in possession of a firearm</u>	<u>1</u>
Set 2	_____	_____	_____
Set 3	_____	_____	_____
Set 4	_____	_____	_____
Set 5	_____	_____	_____
Set 6	_____	_____	_____
Set 7	_____	_____	_____
Set 8	_____	_____	_____
Set 9	_____	_____	_____
Set 10	_____	_____	_____
Set 11	_____	_____	_____
Set 12	_____	_____	_____
Set 13	_____	_____	_____
Set 14	_____	_____	_____
Set 15	_____	_____	_____

ADDITIONAL INFORMATION: _____
